

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

UNITED STATES OF AMERICA,

VS.

CRIMINAL ACTION NO. 1:07CR152-P-D

ANTONIO TATE,

DEFENDANT.

ORDER CONTINUING TRIAL AND SETTING COMPETENCY HEARING

This matter comes before the court upon Defendant's Motion for Continuance and Motion for Competency Hearing [17]. After due consideration of the motion, the court finds as follows, to-wit:

Trial is currently set for March 3, 2008. Defense counsel requests a continuance to afford more time to hold a hearing for the court to determine whether the defendant is competent to stand trial. The Government has no objection to the continuance.

The above circumstances enable the Court to exclude, pursuant to 18 U.S.C. sections 3161(h)(1)(A) ("delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant") and 3161(h)(8)(A), the period of delay from March 3, 2008 until the new trial date to be set in this matter. The time is excludable under subsection (h)(8)(A) because, given the circumstances described above, a continuance is necessary to afford the defendant's counsel more time to adequately prepare for his client's defense. As such, the ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendant in a speedy trial.

IT IS THEREFORE ORDERED AND ADJUDGED that:

(1) Defendant's Motion for Continuance [17] is **GRANTED**;

(2) Trial of this matter is continued until Monday, April 21, 2008 at 9:00 a.m. in the United States Courthouse in Greenville, Mississippi;

(3) The delay from March 3, 2008 to April 21, 2008 is excluded from Speedy Trial Act considerations as set out above;

(4) The deadline for filing pretrial motions is March 31, 2008;

(5) The deadline for submitting a plea agreement is April 7, 2008; and

(6) A hearing to determine the competency of the defendant to stand trial shall be held on Wednesday, March 26, 2008 at 10:00 a.m. at the United States Courthouse in Greenville, Mississippi.

SO ORDERED this 11th day of February, A.D., 2008.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE